

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

JANICE B. SCHWARTZ AND ROBERT §
GAYLE AMUNDSON, PARTNERS DBA §
J & J PROPERTIES, §
§
Plaintiffs, §
§
v. §
§
CENTURY SURETY COMPANY, §
§
Defendant. §

CIVIL ACTION NO. 1:11-CV-217-C

**DEFENDANT CENTURY SURETY COMPANY'S
SUPPLEMENT TO DESIGNATION OF REBUTTAL EXPERTS**

Pursuant to Rule 26(e)(2) of the FEDERAL RULES OF CIVIL PROCEDURE, Defendant Century Surety Company ("Century") supplements its Designation of Rebuttal Experts by attaching the report of rebuttal expert Gary D. Boyd hereto as Exhibit 5 to Century's Designation of Rebuttal Experts.

Defendant Century Surety Company hereby reserves the right to elicit and offer expert testimony of any or all of the experts designated by any other party to this lawsuit, including but not limited to those designated by Plaintiff. Additionally, further investigation and discovery may produce additional information which may have a bearing on Mr. Boyd's opinions. If additional information is forthcoming and such additional information results in a need to supplement or amend any of Mr. Boyd's opinions in Exhibit 5, Century reserves the right to supplement, amend, or withdraw its Designation of Rebuttal Experts in accordance with the rules.

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been served upon Plaintiff's counsel on the 31st day of January, 2013 in accordance with the FEDERAL RULES OF CIVIL PROCEDURE:

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January 30, 2013

RE: J & J Properties, Suburban Shopping;
4128, 4130, 4201 N 1st, Abilene, TX
Claim# 01-07555; Vericlaim #: DAL11308480
Claim Type: Hail
Reported DOL: April 24, 2011

ROOF INSPECTION REPORT

On Saturday, July 21, 2012, I inspected the roofs of the three buildings referenced above. No other attendees were present for the inspection. The weather was clear with widely scattered clouds. Rain clouds were noted to the south and west of the location.

The Abilene International Airport had trace amounts of rain. At the time of the inspection no rain was present at the inspection locations. The roofs were dry and visibility was excellent. The temperature was 105° F.

The purpose of the inspection was to assess the extent of hail/wind damage, if any, as a result of the April 24, 2011 hail storm that moved through parts of Abilene.

A second assignment was to write repair estimates as requested by appraiser, Chuck McCool. The estimates were written without consideration as to the cause and were reportedly for comparison with other estimates being gathered by the appraisal panel.

SUMMARY BRIEF

On April 24, 2011 storm cells moved across the City of Abilene and County of Taylor depositing varying sizes of hail stones. The intensity of the storm cells varied from area to area. Along the more southern portion of Abilene falling hail stones as large as 3" or more in diameter were noted on numerous roofs. The northern portion of Abilene, including a large portion of N 1st Street was impacted by much less intense storm cells which generally produced falling hail stones of pea and marble size mixed with occasional stones as large as 3/4" in diameter.

It is generally accepted that the function and service life of metal R-panel roofing is not affected by falling hail stones less than 2" in diameter.

It is generally accepted that the function and service life of ballasted BUR roofing is not affected by falling hail stones less than 2" in diameter.

Lighter weight aluminum vent caps, HVAC coil fins, 3-tab shingles and base flashings (especially at the cant areas) are less resistant to impacts than are the ballasted BUR roofs.

Typically, hail stones of sufficient density and velocity and 1.5" or larger in diameter are needed to split wood shakes.

Typically, hail stones of sufficient density and velocity and 1.5" or larger in diameter are needed to fracture or puncture composition shingles. The steeper the slope of the roof to which the shingles are installed--the larger and harder the hail stones must be to puncture or fracture the shingles.

THE BUILDINGS

4128 N 1st Street

The metal R-panel roofing which covers 4128 N 1st Street indicated spatter marks consistent with falling hail stones generally less than 3/4" in diameter. The function and life cycle of this roof do not appear to have been affected by hail or wind.

4130 N 1st Street

The roof which covers 4130 N 1st Street contains a ballasted BUR system. There were no punctures, tears, breaks, fractures, bruises or scuffs noted to the gravel-covered areas. Portions of the perimeter were clad either with exposed fiberglass felts or granulated rolled roofing which indicated scuffs and spalling asphalt or granules consistent with normal wear & tear and construction activity. There was no apparent change in the function or expected service life of this roof as a result of hail or wind.

4201 N 1st Street

The building located at 4201 N 1st Street contains three different types of roofing materials. The front façade contains an upper mansard roof which is clad with wood shakes. The backside of the upper mansard is vertical and is clad with 3-tab fiberglass shingles. The main body of the roof consists of a ballasted BUR roof.

The front mansard which is seen by patrons as they park to enter the building is old, worn and demonstrated spatter marks consistent with small, non-damaging hail stone impacts. A few (less than a dozen) shingles were noted to be missing, generally to the sides and backs of the columns that extend above the top of the mansard.

The 3-tab shingles were installed improperly and are sliding down the wall and tearing through the fasteners. The light weight composition shingles indicate scuffs and bruises consistent with construction activity and "nail-popping". The shingles were generally installed with an insufficient number of roofing nails and many of the observed attachment nails were installed above the recommended "nail line". There were no scuffs or bruises to the composition shingles, consistent with falling hail stones that would affect their function or expected service life. The shingles need to be replaced as a result of defective application.

Spatter marks to the oxidized metal surfaces indicated falling hail stones typically pea sized to marble sized with occasional spatters equal to or less than 3/4" in diameter.

The base flashings generally consist of roofing felt and asphalt. No punctures, tears, breaks, fractures, bruises, or scuffs consistent with falling hail stones were noted to the base flashings.

These BUR general repair estimates indicate repairs which my company would stand behind and for which we would offer an extended warranty.

All of the work which I have proposed can be easily accomplished by an experienced and knowledgeable roofing crew. I do not represent that the repairs are necessary as a result of wind or hail.

I am the president of Boyd, Inc., a construction company which has specialized in commercial/industrial roofing since 1974. My company regularly performs the kind of work which I estimated for these buildings.

Supporting data including photographs, weather reporting and aerial views are kept in our archives for future reference, if needed.

These findings are based upon an onsite inspection, weather data review, discussions with appraiser McCool, and good roofing practice.

The findings may be amended if new or additional information is considered.

Report prepared by: Gary Boyd, President, Boyd, Inc., AGRP
CC, CRC, RCATexas Certification #47, LA license 44706
NRCA, MRCA, WSRCA, RCAT, NTRCA, GRHC